



CONGRESSIONAL
LGBT EQUALITY CAUCUS

COUNTRY UPDATE: INDIA

May 1, 2014

Dear Friend:

As Co-Chair of the Congressional LGBT Equality Caucus and a member of the House Foreign Affairs Committee, and because we share an interest in human rights around the world, I write to update you on the challenges faced by lesbian, gay, bisexual, and transgender (LGBT) individuals in other countries.

As you know, across the world members of the **LGBT community face some of the most horrific human rights violation being reported today**. Over seventy countries and territories criminalize same-sex activity, with varied punishments including imprisonment, forced labor, forced psychiatric treatment, corporal punishment, banishment, and the death penalty. LGBT individuals around the world face homelessness, harassment, persecution, exclusion from society, lack of access to medical care, and a variety of other challenges, simply for being who they are. Despite these continued difficulties, in many countries LGBT communities are celebrating their first Pride events and governments are improving laws regarding the equal rights of LGBT people. I hope you will join me in supporting the fight for full equality around the world.

India, a country of over a billion people and the world's most populous democracy, has been in the news of late due to a recent court decision impacting same-sex relationships. Please review the recent developments below, as well as additional information attached.

- India inherited the discriminatory Section 377 of its criminal code, which criminalized same-sex relations with up to ten years imprisonment, when it gained independence from the United Kingdom in 1947. In 2009, Delhi's High Court struck down the law; however, on December 11, 2013, India's Supreme Court reinstated the provision, dealing a blow to activists across the country and around the world. Recently, that same court agreed to review its decision, again raising hope that this anachronistic law will fall.
- The U.S. Department of State's Human Rights Report notes the complex situation faced by the LGBT community in India, where transgender individuals are mostly accepted, but gay men are broadly targeted for blackmail and ridicule, leading many to remain deeply closeted.
- Just last month, the Indian Supreme Court recognized transgender people as a legal third gender.
- In June of 2008, the cities of New Delhi, Bangalore, Kolkata, Indore, and Pondicherry celebrated gay pride parades for the first time in India. Only about 2,000 people turned out at these events. Since then, the number of cities and participants at pride events has increased dramatically.
- Assaults on LGBT activists and meeting places remain relatively infrequent.

Below you will find an in-depth fact-sheet on LGBT individuals in India that I hope will be useful.

Sincerely,

David N. Cicilline
Member of Congress



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COUNTRY UPDATE: INDIA

LGBT individuals in India face a number of challenges and opportunities. With over a billion citizens, speaking 15 different languages and following numerous world and regional religions, India is a complicated country to generalize, including for LGBT persons.

LEGAL STATUS OF SAME-SEX RELATIONSHIPS

India inherited Section 377 of its penal code when it gained independence from the United Kingdom in 1947. While the law was infrequently used, it calls for prison sentences of up to ten years, and a fine, for those convicted of engaging in consensual same-sex conduct. The law was struck down by the Delhi High Court in 2009 – the second most important court in India – and was seen by activists around the world as a positive step for eliminating the laws inherited by many former British colonies which continue to criminalize homosexuality. Unfortunately, the Supreme Court of India overturned that ruling on December 11, 2013, stating that the Court was instead deferring to Indian legislators to make the final determination. Immediately following the ruling, the country’s government said that it would take steps to overturn the ruling, and the Supreme Court recently indicated it would review its decision from last year. Thus, many are hopeful that the issue will be addressed in the coming months.

STATE DEPARTMENT’S HUMAN RIGHTS REPORT AND OUTREACH

According to the U.S. Department of State’s Human Rights Report, LGBT groups were active throughout the country. Particularly over the past five years, groups have sponsored events and activities including rallies, gay pride marches, film series, and speeches. Unfortunately, LGBT persons also face discrimination and violence throughout society, particularly in rural areas. Activists reported that some employers fired those who were open about their sexual orientation or gender identity. LGBT persons also faced physical attacks, rape, and blackmail. Some police committed crimes against LGBT persons and used the threat of arrest to coerce victims not to report the incidents. The U.S. Embassy and Consulates actively engage with LGBT NGOs and activists, and diplomats from the U.S. and other equality-minded countries frequently participate in locally-organized events and discussions.

TRANSGENDER ISSUES

India has a long history of protecting and supporting transgender persons – or “third gender” individuals – although the benefits accorded varies across the country. Recently, the Indian Supreme Court recognized transgender people as a legal third gender. Grounding its decision on rights guaranteed by the nation’s Constitution as well as international law, the court determined gender identity and sexual orientation to be fundamental to the rights to self-determination, dignity and freedom. The court has directed national and state governments to redress entrenched discrimination suffered by transgender people by recognizing them as an official minority, according them quotas for public jobs and admission to educational institutions, and making sure they are not discriminated against when seeking medical care. Official identity documents are now to include a third gender box.